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C O N F I D E N T I A L SECTION 01 OF 03 BEIRUT 001960

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SUBJECT: LEBANON: A/S WELCH TELLS BERRI NO MORE DELAYS FOR ELECTION

REF: BEIRUT 1931

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Classified By: Charge d'Affaires William Grant for Reasons: Section 1.4 (b) and (d).

SUMMARY

1. (C) NEA Assistant Secretary David Welch told Parliament Speaker Nabih Berri on December 15 the time had come for Lebanon to elect a president. Now that the difficult work of finding a consensus candidate had been done, there were no more excuses for holding the election. In a clear warning to the Speaker, A/S Welch said if there were more delays, the U.S. would hold those who continued to block the elections responsible. Berri, still refusing to allow a constitutional amendment to pass through the "illegitimate" Siniora government (reftel), continued to point to legal obstacles and Free Patriotic Movement leader Michel Aoun's political conditions as the real cause for the delay. Privately, Berri told A/S David Welch he had a new idea for resolving the impasse that would not require a constitutional amendment. End summary.

NOW IS THE TIME TO VOTE

2. (C) NEA A/S David Welch met with Parliament Speaker Nabih Berri at his office in Ain el-Tineh on December 15. Charge Bill Grant, Pol/Econ Chief, and Berri advisors Ali Bazzi (AmCit) and Ali Hamdah also attended the meeting. Explaining that no senior USG official had visited Lebanon for some time to avoid the appearance of interfering in the election, A/S Welch stated categorically that it was now time to hold the election, without further excuses or delays. The U.S. saw no reason for not having elected a president, he said, especially now that a consensus candidate had been found in Lebanese Armed Forces (LAF) Commander Michel Sleiman. It is time for people to exercise their responsibility.

3. (C) The U.S. has a lot of investment in Lebanon, A/S Welch continued. It supports the Lebanese democratically-elected government and its right to elect a president. Stressing again that the time had come to put the election behind, A/S Welch said the U.S. found it difficult to understand the delays -- did Berri really want a president? The time had come to make a choice and elect a president.

FINGERING THE REAL CULPRIT

4. (C) Cutting to the chase, A/S Welch said Berri, as Speaker, had the power to make the election happen if he chose. The U.S., along with the entire international community (with the possible exception of Syria and Iran), disagreed with the opposition's claim that the Siniora cabinet was illegitimate. Once again the opposition was attacking Lebanon's democratic institutions: First the parliament (with the November 2006 walkout of the six opposition ministers), then the presidency (by delaying the election), and now, again, the cabinet (by denying its legitimacy).

5. (C) As a political matter, A/S Welch pointed out, the election of a new president leads to a new cabinet, which is what the opposition claims it wants, namely to be rid of the Siniora government. If, as Berri claimed, delaying the election until after the December 31 end of the legislative session would put Lebanon in a "dangerous period," who will

be held responsible? A/S Welch asked. You will, Mr. Speaker, he warned.

16. (C) Berri, seemingly unruffled, stated, "My way will work." He assured A/S Welch of two things: he wanted to finish the election before the end of the year, and he would find a way that is not against the constitution and not necessarily without a role for the cabinet. Announcing that he had two new ideas that he had discussed with Sleiman and would discuss with MP Bahije Tabbareh later in the day, he added that he had to be careful not to set a bad precedent.

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BERRI REVIEWS HIS EFFORTS
TO ELECT A PRESIDENT

17. (C) Berri countered that he had been working since the first parliamentary session (September 25) to find a solution. At first, the problem was on the name. Now, the opposition and majority had agreed on Sleiman, even though March 14 previously had opposed his candidacy, accusing him of being pro-Syrian and objecting to the constitutional amendment his election would require.

18. (C) Even the U.S. position was unclear, Berri claimed. First Ambassador Feltman said an amendment was acceptable if the Lebanese people decided on it, then the Secretary said an amendment was not acceptable. (Comment: As usual, Berri's memory is either fuzzy or conveniently selective. Ambassador Feltman's statements and a statement issued by the Embassy both echoed the Secretary's statement that the U.S. was not opposed to an amendment as long as it was an internal Lebanese decision. End comment.)

19. (C) "We accepted (Sleiman) too late," Berri continued, referring to the midnight November 23 expiration of President Lahoud's term. If a president is elected now, the minute he is elected, the cabinet automatically is considered to be resigned.

OTHERS TO BLAME FOR DELAYS

17. (C) Free Patriotic Movement leader Michel Aoun also caused problems, Berri said, by putting two conditions on Sleiman's candidacy: He must step down in two years, and Saad Hariri cannot be prime minister. Berri refused to accept those conditions, since they both go against the constitution. (Comment: The constitution stipulates a six-year term for the presidency and that the prime minister is chosen by the president in consultation with parliament. We find it ironic that Berri cites constitutional grounds for "refusing" Aoun's conditions, but has no qualms about blatantly violating the constitution when it comes to his proposals for amending it (reftel). End comment.) Only after a president is elected can we discuss names of cabinet members, Berri said.

18. (C) With French FM Kouchner, we agreed on three things, Berri continued: 1) Sleiman as the consensus candidate; 2) a national unity government that is proportional according to the blocs in parliament; 3) a new electoral law to be based on "qada" (small districts). The Christians want this last point, Berri said, not me, but I promised the Patriarch I would accept it. (Comment: Berri's constant regard for Christian interests is commendable indeed. End comment.) On the national unity government, the 55/45 proportion in parliament translates into 17 cabinet positions for the majority and 13 for the minority, he explained, but majority leader Saad Hariri would not accept this.

BERRI'S WAY OR NOTHING ON
CONSTITUTIONAL AMENDMENT

19. (C) The other problem is how to amend the constitution, Berri said, noting that both he and Saad had made suggestions but so far failed to agree. Berri had proposed that the cabinet resign, then come back as a caretaker government with the Shia rejoining. But March 14 said it wouldn't touch the "sacred" government, Berri complained, so he proposed two ways to avoid going through the cabinet (reftel). March 14 so far had not rejected these, but neither had they agreed.

10. (C) Pressed by A/S Welch for an explanation of why Berri refused to allow the amendment to pass through the cabinet, Berri repeated that the cabinet was "illegitimate," as he had been saying for over a year. Even Saad's legal expert, Bahije Tabbareh, agrees that the government is unconstitutional, Berri said. (Note: Tabbareh, with whom we have discussed this issue, also believes and has said that Berri's proposals bypassing the cabinet are unconstitutional. Furthermore, Tabbareh, a March 14 MP who was close to former PM Rafiq Hariri, distanced himself from Saad when he was

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passed over to become prime minister in favor of PM Siniora and denies that he represents March 14's views, as does Saad

himself. End note.)

¶11. (C) Furthermore, Lebanon is a federal community, and all confessions must be present. Unfortunately for me, Berri said, it is the Shia who are absent from the government. He had asked Siniora to replace the resigned Shia ministers, but Siniora reportedly said he could not because former President Lahoud would not sign off. I told him, that's a problem between you and Lahoud, Berri said, noting that it was the same excuse Siniora used to avoid sending parliament a draft law on the Special Tribunal. Berri added that he had rejected a proposal during the meeting with Kouchner that, if the Shia ministers returned to cabinet, a committee would be convened to review all of the Siniora government's decrees, stating that he did not want to look back.

¶12. (C) March 14 says the Siniora government will not resign, Berri said. Instead they insist that I send one Shia back to the cabinet for one hour, which I can't do. But the whole process of amending the constitution and electing the president will only take one hour, he said, so the government would only have to resign one hour before the election. Once a new president is elected, the government is automatically considered to be resigned.

¶13. (C) March 14 insists on going through the cabinet in an attempt to legitimize the government, Berri said, after the Shia have been excluded for 13 months. It's not just about the Shia, he explained, but about setting a bad precedent excluding one group. This is how the Christians feel now without a president, he claimed. He said he had told Siniora to accept the Shia resignations and appoint new ones, but Siniora refused. I am a "servant to Siniora," Berri claimed, I'm not against him, in fact during the 2006 war I worked with him constantly; he was the "political resistance."

DECEMBER 31 DEADLINE
OR DANGER AHEAD

¶14. (C) It is more than a hundred times necessary that we finish the amendment before December 31, Berri stressed. Otherwise we won't be able to amend the constitution before the next legislative session begins mid-March, and "waiting another three months is dangerous." (Comment: Again, Berri is conveniently twisting the facts. Under Article 76 of the constitution, the government can still initiate the amendment process and convene parliament to vote, regardless of whether parliament is in session. End comment.)

NEW TRICKS AHEAD

¶15. (C) Drawing A/S Welch aside for a tete-a-tete, Berri revealed that his latest brainstorm, which he already had discussed with Michel Sleiman and intended to discuss with Tabbareh later that day, was a solution that did not require a constitutional amendment because the "term" had already expired (NFI). (Comment: We puzzled over this comment with our own visiting legal expert, Jonathan Schwartz, but have yet to discover what term is referred to or what is the next trick up Berri's sleeve. In any case, the real issue, as A/S Welch so clearly put it to Berri, is whether the political will exists to allow the election to proceed. If not, we expect to see many more samples from Berri's bag of legal tricks, especially after December 31, when the legal framework for amending the constitution becomes even more complicated. End comment.)

¶16. (U) A/S Welch has not cleared this cable.
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